the main grant, it would seem, *a fortiori*, to be true that, even though such a limitation as the one in the submission of the Eighteenth Amendment is void, the whole submission does not fall therewith.

COURTS—PENDENCY OF ANOTHER ACTION—ABATEMENT AND REVIVAL.—Plaintiff brought an action in the county court for injuries to his automobile, sustained in a collision with the defendant's automobile. Defendant later sued plaintiff in the municipal court for damages sustained in the same collision, and judgment for defendant was rendered in the suit in the municipal court. Plaintiff filed a bill to restrain the further prosecution of the suit in the municipal court on the ground that the county court had acquired jurisdiction first. *Held*, the two suits not being for the same cause of action, the bill should be dismissed. *Gilley* v. *Jarvis* (Vt., 1920), 109 Atl. 41.

The view taken by the court in this case is undoubtedly correct. For a discussion of this question and contrary decisions, see *supra*, 18 MICH. L. REV. 421.

DAMAGES—BREACH OF COVENANT OF SEISIN.—The grantee of land entered into a contract for the sale of it; the purchaser from the grantee repudiated the contract and obtained judgment for an advance payment and costs on the ground that the title was not marketable. The grantors of the land were notified, but refeused to defend the suit. In an action against the grantor for breach of the covenant of seisin it was *held* that the grantors are liable to the grantee for the difference between the total purchase price and the value of the portion of the land to which they had title with interest. As the suit with the purchaser was not in defense of the title, no damages could be recovered in respect to it. *Hilliker* v. *Rueger* (New York, 1920), 126 N. E. Rep. 266.

The rule in England for failure to convey realty is to allow nominal damages merely. *Flureau* v. *Thornhill*, 2 W. B. 1078; *Bain* v. *Fothergill*, 7 H. L. Cas. 158. But in the United States the rule is generally the difference between the value of the realty at the time of conveyance and the contract price. *Hopkins* v. *Lee*, 6 Wheat. 109; *Doherty* v. *Dolin*, 65 Me. 87; *Plummer* v. *Regdon*, 78 Ill. 222. *Contra*, see *Hammond* v. *Hannen*, 21 Mich. 374; *Burk* v. *Scrull*, 80 Pa. 413; *Pumpelly* v. *Phelps;* 40 N. Y. 59; *Margraf* v. *Muir*, 57 N. Y. 155. On general principles, the measure of damages would be fixed by the bargain—*i. e.*, in case of eviction the value of the property lost. Under a covenant of seisin the value would be taken at the time of the conveyance, for it is then the breach occurs. Under the covenant of quiet enjoyment and warranty the value would be taken at the time of actual eviction. But owing to the extreme hardship which would result to a remote grantor the rule has been adopted that in breach of covenants of seisin and warranty the damages are the consideration paid, with interest and reasonable costs of defending the title. *Staats* v. *Ten Eycks* (N. Y.), 3 Cain. 111; *Pitcher* v. *Lewingston* (N. Y.), 4 Johns. 1. See cases cited in TIFFANY ON REAL PROPERTY, Chap. XIX, note 301. Under the ancient *warrantia chartae* the value of the land at the time of conveyance, rather than the consideration paid, was recovered. In a few states the covenant of warranty is consid-